THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1588 of 2004

Dated 27.10.2005

Smt. P.Sunanda d/o Ranga Rao and others.

..... APPELLANT(S)

AND

Revenue Divisional Officer, Chevella Division, Attapur Village,

Ranga Reddy District and others.

.....RESPONDENT(S)

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1588 of 2004

ORAL ORDER: (per Sri BRSR,J)

This writ appeal arises out of the order passed by the learned single Judge in W.P.No.2508 of 2004. The appellants are the petitioners in the said writ petition. They claim to be the purchasers of land admeasuring Ac.16.12 guntas in S.No.367 and Ac.11.29 guntas in S.No.368 of Alwal village of Malkajgiri mandal in the court auction conducted by the Additional Chief Judge-cum-Principal Special Judge for

SPE and ACB cases. They claim that even possession has been delivered to them in the said court auction. Their case is that respondents 2 to 5 herein got impleaded themselves as objectors in the proceedings initiated by one Kothakapu Sai Reddy and three others before the 1st respondent - Revenue Divisional Officer under the provisions of the A.P. (Telangana area) Abolition of Inams Act 1955 (for short the Act). The sum and substance of the case set up by them is that the Revenue Divisional Officer has no jurisdiction to make an enquiry under the provisions of the said Act and the question of granting any occupancy rights in favour of any of the parties does not arise. The Revenue Divisional Officer, having considered the objections of all the parties who appeared before him, issued Occupancy Right Certificate for respondents 2 and 3 herein. The objections filed by the appellants herein were dismissed.

The learned single Judge dismissed the writ petition filed by the petitioners herein on the sole ground that the petitioners have an alternative and effective remedy by way of an appeal provided under Section 24 of the said Act. The learned Judge did not express any opinion on the merits with regard to various contentions that were urged before him.

In this appeal, Sri D.Prakash Reddy, learned senior counsel made an attempt to contend that the Revenue Divisional Officer has no jurisdiction whatsoever to entertain any proceeding under the provisions of the said Act since the land in question is not an inam land. Per contra, Sri E.Pulla Reddy and Sri L.Ravichander submit that the writ appellants themselves filed the application in Form-1 seeking grant of Occupancy Right Certificate claiming themselves to be the successors in interest of the inam land and in such view of the matter, it is not open for the appellants to contend that the Revenue Divisional Officer has no jurisdiction to entertain the proceedings under the provisions of the said Act. They have even made available a copy of the application submitted by the appellants herein before the Revenue Divisional Officer. The prayer in their application reads as follows;

> “that this Honourable Revenue Divisional Officer may be pleased to issue Occupancy Certificates in the name of the Objection petitioners herein as they are the successors in interest to the property bearing Sy.Nos.367 and 368 situated

at Khanajiguda village, Hamlet of Alwal village, Malkajgiri Mandal, Ranga Reddy district ."

That a bear reading of the application submitted by the appellants herein disclose that the appellants themselves were asserting their right to get Occupancy Right Certificates under the provisions of the said Act. They have subjected themselves to the jurisdiction of the Revenue Divisional Officer.

Sri D.Prakash Reddy, learned senior counsel however contended that neither of the parties, either on their own volition or even by consent cannot confer jurisdiction on the Revenue Divisional Officer if he otherwise does not have the jurisdiction to make an enquiry under the provisions of the said Act. In our considered opinion, nothing prevented the appellants to raise the plea even with regard to the jurisdiction in the appeal provided under Section 24 of the said Act. All the pleas that are raised in this writ petition could have as well be raised in the said appeal, which the appellate authority is bound to decide in accordance with law. In such view of the matter, we do not find any error to have been committed by the learned single Judge in dismissing the writ petition filed by the appellants herein on the ground of there being an alternative and effective remedy available to the appellants. We are in complete agreement with the view taken by the learned single Judge for dismissing the writ petition.

However, it is brought to our notice that in view of the admission of this appeal, the appellants did not prefer any appeal against the order passed by the Revenue Divisional Officer, which is impugned in the writ petition. In the circumstances, we consider it appropriate to direct the appellate authority – Joint Collector, Ranga Reddy District to receive the appeal to be preferred by the appellants herein on or before 14.11.2005 without raising any objection as to the limitation and hear the same along with the other appeals said to be under his consideration. The appellants shall be entitled to raise all the grounds that may be available to them in law including the grounds raised in the writ petition as regards the jurisdiction of the Revenue Divisional Officer to make an enquiry under the provisions of the Act. The learned counsel appearing for the respondents fairly submitted that the appellants are entitled to raise all such grounds including the

grounds raised in the writ petition. They have also submitted that the respondents shall have no objection for the appeal to be preferred by the appellants to be entertained by the Joint Collector provided the same is filed on or before 14.11.2005.

Accordingly, the writ appeal is dismissed with leave granted to the appellants to prefer an appeal to be entertained by the appellate authority provided the same is preferred on or before 14.11.2005. No costs.

(B.SUDERSHAN REDDY,J)

Dated 27..10..2005

(S.ANANDA REDDY,J)

Note:

Furnish CC by Monday

(B/o)

msv